

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIVA RAMA RAO KOTAPATI,

Plaintiff,

V.

HAE YOUNG KIM, and All Occupants of the Premises located at 18611 37th Dr. SE, Bothell, WA 98102,

Defendant.

Case No. C17-0593RSL

ORDER

Plaintiff Siva Rama Rao Kotapati filed this unlawful detainer action in state court.

On April 17, 2017, defendant Hae Young Kim removed the case to federal court alleging that the Court has jurisdiction based on an issue of federal bankruptcy law and/or diversity of citizenship. The Court ordered defendant to show cause why this case should not be remanded to state court for lack of subject matter jurisdiction. Although no response was received by the date specified in the Court's order, there seems to have been a delay in service: a response to the order to show cause was received on May 15, 2017.

The Court finds that remand is nevertheless appropriate. Defendant argues that this Court has jurisdiction over this unlawful detainer action because he is a dependent of active military personnel under 50 U.S.C. § 3932. This argument is factually and legally deficient. The “Enlisted Record Brief” submitted by defendant is for Eugene Young Kim who, according to the document, has no dependents. The statute upon which defendant

1 relies, 50 U.S.C. § 3932, applies only where a named party is in military service.
2 Defendant does not claim to be in the military service: whether he is the dependant of
3 active military personnel is therefore irrelevant.

4 Assuming, for purposes of this analysis, that Eugene Young Kim is another
5 occupant of the foreclosed premises and therefore a defendant in the state court action,
6 the statute enables him to request a stay utilizing the procedures set forth in 50 U.S.C.
7 § 3932(b)(2). There is no indication in the statute or the case law that an intrinsically state
8 law matter such as an unlawful detainer action is preempted or becomes a federal claim
9 simply because a service member is a named party. Plaintiff could not have filed this
10 complaint in federal court originally, and the fact that Eugene Young Kim may have a
11 right to stay the state court action does not justify its removal to federal court.

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13 The Clerk of Court shall immediately transfer this matter to Snohomish County
14 Superior Court.

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16 Dated this 17th day of May, 2017.

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18 Robert S. Lasnik

19 Robert S. Lasnik
20 United States District Judge
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